IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

LA.App..No. 714 of 2001(C)
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LAR.165/1997 of ADL.SUB COURT, THALASSERY
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APPELLANT:
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KARAYI RAGHAVAN, S/O.KRISHNAN, AGED 57 YRS.,
NO OCCUPATION, "KRISHNA", KAVUMBHAGAM P.O.
THIRUVANGAD AMSOM KAVUMBHAGAM DESOM,
THALASSERY TALUK, KANNUR DIST.

BY ADV. SRI.R.SURENDRAN
SRI.K.LAKSHMINARAYANAN

RESPONDENTS:
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1.SPECIAL TAHSILDAR, LAND ACQUISITION, (NH),
THALASSERY, KANNUR DIST.

2.KARAYI SARADA, W/O.KRISHNAN,
AGED 77 YRS., "VAZHAYIL HOUSE"
P.O.KAVUMBHAGAM, THALASSERY TALUK,
KANNUR DIST. (DELETED)

(NAME OF THE 2ND RESPONDENT DELETED FROM THE
PARTY ARRAY AT THE RISK OF THE APPELLANT VIDE ORDER
DT. 22.9.2005 IN IA 2612/05)

BY GOVERNMENT PLEADER SRI.K.V.MANOJKUMAR.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**KURIAN JOSEPH & HARUN-UL-RASHID, JJ.**

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**L.A.A.No.714 of 2001**

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**Dated 4th October, 2007.**

**J U D G M E N T**

**Kurian Joseph, J.**

This is an appeal filed by the claimant against the judgment and decree in LAR 165/97 on the file of the Additional Sub Court, Thalassery. The acquisition is for Thalassery-Mahe bye pass. The extent involved is 42 cents. In the memorandum of appeal, it is stated that out of the 45 cents, 42 cents have been acquired. The appellant has claimed a further enhancement at the rate of Rs.2,900/- per cent, considering the market value at Rs.7,500/- per cent. Fixation of Rs.7,500/- per cent in respect of the acquisition of similarly situated properties has been sustained by this Court in LAA 1214/97 and LAA 1294/97. Therefore, the appellant is entitled to succeed to have the market value refixed at Rs.7,500/- per cent.

2. Though the appellant has made a claim for severance compensation and also value of the building, it is seen that for value of the building, compensation has already been granted by the reference court itself. As far as severance compensation is concerned, the appellant did not have a claim

before the Land Acquisition Officer. That apart, since the acquisition is for bye pass, even if it is around 3 cents or less, on the formation of the bye pass, the claimant will only be benefited. Therefore, we do not find any justification in awarding severance compensation. Accordingly, the appeal is partly allowed, refixing the land value at Rs.7,500/- per cent. The appellant will also be entitled to consequential and eligible statutory benefits, including interest on solatium.

The appellant will be entitled to proportionate costs.

**KURIAN JOSEPH, JUDGE.**

**HARUN-UL-RASHID, JUDGE.**

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**KURIAN JOSEPH &**

**HARUN-UL-RASHID, JJ**

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**L.A.A. NO.714 OF 2001**

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**J U D G M E N T**

**Dated 4th October, 2007.**